

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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)	
Petition for Declaratory Ruling that)	WC Docket No. 03-45
pulver.com's Free World Dialup is)	
Neither Telecommunications Nor)	
a Telecommunications Service)	
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REPLY COMMENTS OF AT&T CORP.

Pursuant to the Commission's *Public Notice*,¹ AT&T Corp. ("AT&T") respectfully submits these reply comments on the petition of pulver.com for a declaratory ruling that its Free World Dialup ("FWD") service is not a regulated telecommunications service.² As AT&T explains, there is no substantial reason for the Commission separately to consider this petition. But if the Commission chooses to do so, it should adhere to its "wait and see" policy of exempting Voice over Internet Protocol ("VOIP") services from regulation until such time as the Commission addresses the issues in a comprehensive proceeding and adopts rules that provide otherwise.

pulver.com's FWD service is a unique and narrow form of VOIP. According to pulver.com's petition, users of the service are not currently assessed per minute or other charges; the service is not currently accessed through switched local exchange facilities, and the service currently is provided only between computers or IP phones. But as commenters have pointed

¹ *Pleading Cycle Established for Comments on pulver.com Petition for Declaratory Ruling*, WC Docket No. 03-45, Public Notice, DA 03-439 (Feb. 14, 2003).

² Appendix A lists the parties filing comments.

out, pulver.com's FWD service – like all VOIP services – promises to evolve rapidly, and there is reason to believe that current or future versions of the service may involve some form of charges on users and use of switched local exchange networks.³ If so, pulver.com's service will present issues that are no different from those raised in the pending proceeding in which AT&T is seeking a declaratory ruling that VOIP services are exempt from carrier access charges.⁴

As commenters also point out, it is “far from clear” that pulver.com has made a legitimate procedural case for a declaratory ruling.⁵ In sharp contrast to AT&T's petition – which demonstrates that the self-help measures of incumbent LECs have created actual controversies over the applicability of interstate access charges to VOIP services – pulver.com's petition has not established any actual controversy, but has merely asserted that it has “begun receiving inquiries from international carriers” about its service.⁶ As commenters point out, there is no substantial reason to “review[] the pulver.com Petition as a stand-alone matter.”⁷ Rather, “the Commission should focus its efforts on addressing the broader issues raised in AT&T's petition,”⁸ and should address the narrow issues raised by the current version of FWD

³ See SBC at 1-4; BellSouth at 5-6 (pulver.com's petition is “vague at best as to how the current and future versions of the service will utilize existing local exchange networks.”)

⁴ See *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, WC Docket No. 02-361 (Oct. 18, 2002).

⁵ BellSouth at 1; see also *id.* at 1-4; Global Crossing at 1.

⁶ *Petition for Declaratory Ruling that pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, at 1 (Feb. 5, 2003).

⁷ International Softswitch Consortium at 2.

⁸ Global Crossing at 2.

“only after it has established an overall regulatory framework.”⁹

However, if the Commission chooses to rule on pulver.com’s petition, it should be granted. As explained in AT&T’s petition, the Commission has properly followed a policy of exempting all VOIP services from regulations applicable to telecommunications services pending a comprehensive rulemaking that would address the range of issues that these services present. pulver.com’s service is a VOIP service, and as virtually all commenters agree, there is no current basis to subject it to regulation as a telecommunications service. Thus, if the Commission were to reach the issue, it should hold that the FWD service of pulver.com is exempt from the regulations applicable to telecommunications services, pending the adoption of different rules in a comprehensive proceeding addressing Internet telephony.

Respectfully submitted,

AT&T CORP.

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⁹ Verizon at 1; *accord* SBC at 1; BellSouth at 1-2.

APPENDIX A

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of April, 2003, I caused true and correct copies of the foregoing Reply Comments of AT&T Corp. to be served on all parties by mailing, postage prepaid to their addresses listed on the attached service list.

Dated: April 2, 2003
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